

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

KASEY D. ALVES

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:06cv912LGJMR

**HARRISON COUNTY, MISSISSIPPI, BY AND
THROUGH THE BOARD OF SUPERVISORS, ET AL.**

DEFENDANTS

**DEFENDANT, GEORGE PAYNE'S MOTION IN LIMINE NO. 1
TO BAR PLAINTIFF'S EVIDENCE AND REFERENCES TO THE
CONSENT DECREE, REPORT OF DEPARTMENT OF JUSTICE'S
CONSULTANT, AND EXCERPT FROM REPORT OF UNITED STATES
DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF CORRECTIONS
REPORTS AND CONSULTANTS FOR NIC AND TESTIMONY
OF STEVE MARTIN AND JOHN ALESE**

COMES NOW, Defendant, Sheriff George Payne, in his official capacity, by and through his attorneys of record, Dukes, Dukes, Keating & Faneca, P.A., and moves this Honorable Court in *limine*, to enter an order barring Plaintiff's evidence and references to the Consent Decree, Report of Department of Justice's Consultant, and excerpt from Report of United States Department of Justice, National Institute of Corrections Reports and Consultants for National Institute of Corrections and testimony of Steve Martin and John Alese. In support thereof, Defendant states as follows:

1. Defendant respectfully moves this Court to bar Plaintiff from offering any exhibit documents, testimony, or argument relative to Consent Decree, Report of Department of Justice's Consultant, and Excerpt from Report of United States Department of Justice's Consultant, and Excerpt from Report of United States Department of Justice, National Institute of Corrections, pursuant to Fed. R. Evid. 801, 802, being inadmissible hearsay; pursuant to Fed. R. Evid. 401 and 402, being evidence which is not relevant and therefore is not admissible; pursuant to Fed. R. Evid.

701-704, and Fed. R. Civ. P. 26 and 16, which prohibits Plaintiff's attempt to rely on testimony of any fact and/or potential witness who was never properly designated by Plaintiff in this case, and who should not be permitted to offer his opinions at trial. *See* Consent Decree, **Exhibit "1"**; 7th Supplemental Report of Steve J. Martin, **Exhibit "2"**; Technical Assistance Report, **Exhibit "3"**.

WHEREFORE PREMISES CONSIDERED Defendant, George Payne respectfully requests this Court to enter an Order granting this Motion in Limine and respectfully requests the Court to enter an Order as follows:

- A) Directing the Plaintiff through their respective counsel, and counsel individually, not to mention, refer to, interrogate concerning, voluntarily answer, or attempt to convey before the jury whether orally or through a document, at any time during these proceedings, in any manner, either directly or indirectly, the subject matters as stated above without first informing the Court and obtaining permission of the court outside the presence and hearing of the jury;
- B) Instructing the Plaintiff, through their respective counsel, and counsel individually, not to make any reference or inference to the fact that this motion has been filed, argued or ruled upon by this Court; and
- C) Instructing Plaintiff and Plaintiff's attorney to warn and caution each and every witness appearing in their phase of this litigation to strictly comply with the Court's ruling.

RESPECTFULLY SUBMITTED, this 13 day of April, 2009.

**GEORGE PAYNE, JR., IN HIS OFFICIAL CAPACITY
ONLY AND HARRISON COUNTY SHERIFF'S
DEPARTMENT, Defendant**

BY: **DUKES, DUKES, KEATING & FANECA, P.A.**

BY: s/Cy Faneca
CY FANECA, MSB #5138

CY FANECA, MSB #5128
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CERTIFICATE OF SERVICE

I, CY FANECA, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Woodrow W. Pringle, III, Esquire
2217 Pass Road
Gulfport, MS 39501

Counsel for Harrison County:
Karen Young, Esq.
Meadows Law Firm
Post Office Drawer 1076
Gulfport, Mississippi 39502

This, the 13th day of April, 2009.

s/Cy Faneca

CY FANECA